IN THE HIGH COURT OF BOMBAY AT GOA
***

WRIT PETITION NO. 563 OF 2003

Shri Vishnu Chandru
Gaonkar, r/o H.No.
410, Gudkem, Balli,
Quepem, Goa. ... Petitioner

Versus

1. Village Panchayat of
Loliem-Palolem, through
its Sarpanch, having office
at Loliem, Canacona, Goa,

2. Deputy Director of
Panchayat, South Goa,
Comunidade Bldg. Margao,
Goa,

3. Director of Panchayat,
Government of Goa,
having office at Junta
House, Panaji, Goa,

4. State of Goa, through
the Chief Secretary,
having office at
Secretariat, Panaji, Goa, and

5. Mrs. Minguelina D'Souza,
housewife, r/o Tamnem,
Loliem, Canacona, Goa. ... Respondents.

Shri M. S. Sonak, advocate for the petitioner.

Shri C. A. Coutinho, advocate for respondent no.1.

Shri A.N.S. Nadkarni, Advocate General with Shri P. A. Kamat, Government Advocate for respondnet nos. 2, 3 and 4.

Shri S. G. Dessai, Senior Advocate with Shri Shivan Dessai, advocate for respondent no.5.

CORAM : P. V. HARDAS &
D. G. KARNIK, JJ.

DATE : 5th April, 2004.

ORAL JUDGMENT (Per Hardas, J.)

Rule. Rule returnable forthwith. By consent of learned counsel for the parties the petition is taken up for

final hearing at the stage of admission.

2. The petitioner has filed this petition ostensibly in public interest praying for a writ of mandamus directing respondent nos. 1 and 2 to take action against the illegal construction carried out by the fifth respondent in survey no. 328/1 of Loliem village, of Canacona Taluka. The petitioner has also prayed for incidental reliefs. Notice was issued to the respondents and the respondents have filed their replies.

3. It is not necessary for us to advert to the facts pleaded by the petitioner and the various contentions urged on behalf of the respondents, in view of the fact that the fifth respondent in his affidavit dated 27th January, 2004, in paragraph 6 has admitted that before starting the construction the fifth respondent had not obtained the prior permission from the appropriate authorities. However, according to the fifth respondent, while constructing the said construction, he has not violated any bye-laws. The first respondent has filed an affidavit dated 19th March, 2004. In the said affidavit at paragraph 4 it is stated that the first respondent has passed a Resolution dated 11th March, 2004 for revoking the house number which had been allotted to the construction of the fifth respondent. It is also stated in the said affidavit that the first respondent would move the second respondent, the Deputy Director of Panchayats, to withdraw the notice under Section 66(5) of the Goa Panchayat

Raj Act and in case the said notice is withdrawn, the first respondent would move the appropriate Resolution for demolition of the said illegal structure. The said notice issued by the Deputy Director of Panchayats, South Goa, Margao, dated 21st November, 2003, has been annexed by the first respondent to the said affidavit. By the said notice, the Deputy Director of Panchayats, South Goa, Margao, has assumed the powers of the Panchayat under Section 66(5) of the Goa Panchayat Raj Act.

4. In view of the fact that the authorities have initiated action against the fifth respondent for the alleged illegal construction carried out by him, according to us, the grievance as set out by the petitioner in the present petition stands satisfied. However, we direct the second respondent to take action in accordance with law within six months from today and report compliance to this Court. It is made clear that since we have not adjudicated upon the various contentions of the parties, the respondents are free to raise the same in such proceedings as available under law, including consideration of the application of the respondent no.5 for regularisation of construction, if permissible and available in law.

The petition is disposed of accordingly with no order as to costs.

P. V. HARDAS, J.

D. G. KARNIK, J.